

PT 06-32

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

MORGAN COUNTY HISTORICAL SOCIETY,
Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS,**

**A. H. Docket No. 05-PT-0017
Docket No. 05-069-02
PIN: 10-19-200-005
Tax Year: 2005**

**Barbara S. Rowe
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Forrest G. Keaton, Rammelkamp Bradney Attorneys at Law, for Morgan County Historical Society; Mr. Kent R. Steinkamp, Special Assistant Attorney General, for the Illinois Department of Revenue

Synopsis:

The hearing in this matter was held to determine whether Morgan County Parcel Index No. 10-19-200-005 qualified for a property tax exemption during the 2005 assessment year.

Robert L. Siebert, president of the Morgan County Historical Society (hereinafter referred to as the "Applicant"), and Linda Prokop-Mann "Lin Mann" chairman of the Underground Railroad Committee of the applicant, were present and testified on behalf of applicant.

The issue in this matter is whether the applicant used the parcel for charitable purposes during the 2005 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be denied. In support thereof, I make the

following findings of fact and conclusions of law in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Morgan County Parcel Index No. 10-19-200-005 did not qualify for a property tax exemption for the 2005 assessment year were established by the admission into evidence of Dept. Ex. Nos. 1 and 2. (Tr. p. 6)

2. The Department received the application for exemption of the subject parcel from the Morgan County Board of Review. The Board recommended granting a partial exemption from January 1, 2004 “To subsequent”. The Department denied the requested exemption finding that the property was not in exempt use in 2005. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by two warranty deeds dated December 22, 2003. The property contains 10.01 acres and is approximately 5 miles from downtown Jacksonville. On it are a two-story house, a two-story barn, a three-car garage and a shed. (Applicant’s Ex. Nos. 1, 2; Tr. p. 37)

4. Located on the first floor of the two-story house are the northwest bedroom, the entrance hall, a parlor, the southeast porch, dining room, a southwest porch, kitchen, bath and laundry room. On the second floor are another northwest bedroom, a hall, a northeast bedroom, a southeast bedroom, a bath and an attic. (Applicant’s Ex. No. 13)

5. On January 30, 2004, applicant entered into a lease agreement for a portion of the house on the subject property. The lessee, in lieu of cash payments for rent, agreed to mow and maintain the lawn and grounds around the residence and surrounding buildings, lock and secure all premises, notify the applicant and authorities of any incidents of crimes, make minor repairs, and notify applicant if he would be away for more than 48 hours. (Applicant’s Ex. No. 8)

6. The lease covers the occupancy of the upstairs bathroom and southeast bedroom, the use of the kitchen and one stall of the three-stall garage. (Applicant's Ex. No. 8)

7. Four acres of the subject property are subject to the Conservation Reserve Program of the federal government. Applicant receives \$400 a year from the government not to put the area into productive use for farming. Instead, the land must be seeded and mowed pursuant to the United State's Department of Agriculture mandates. The prior owners had enrolled a substantial amount of land in the program for ten years. If the land is not maintained in that manner for the entire ten-year commitment, whatever amount given must be repaid. (Tr. pp. 25-26, 34)

8. The 10.01 acres at issue were owned in the 19th century by Michael Huffaker and known as the Woodlawn Farm. It was a stop on the Underground Railroad in the State of Illinois. The Underground Railroad was a series of homes and other buildings that housed fleeing slaves in America during the Civil War. The Woodlawn Farm is one of eight sites located in Jacksonville that have been identified and recognized as part of the Underground Railroad. (Applicant's Ex. No. 16; Tr. p. 36)

9. Applicant keeps a guest book¹ at Woodlawn Farm that it encourages people to sign. Schools contact applicant about tours of the property if they are doing a unit on the Underground Railroad. In addition, applicant has visits and involvement with other schools and college students. Applicant refers to Woodlawn Farm as the Underground Museum and Resource Center to include its interaction with libraries and other organizations. (Applicant's Ex. No. 26 (Newspaper article); Tr. pp. 60, 74-77)

10. Applicant has arranged tours of the property with five to six tour guides. A tour of the farm includes the entire property. Visitors pretend they are either escaped slaves known as

¹ The guest book was not in evidence.

“freedom seekers,” people sent to capture the freedom seekers or the homeowner who helped hide the slaves. Visitors that are physically able, traverse the property, which has a creek close to the south side. Freedom seekers were able to use the creek to get rid of any scent dogs might detect. The local area was known for hiring free blacks. (Applicant’s Ex. Nos. 9-11; Tr. pp. 37-43, 54-56, 62-63)

11. On June 5, 2004, the farm was featured as part of a program called “Lamps of Knowledge, Lights to Freedom” which was presented by a local college on the anti-slavery movement of the Civil War Era. The conference fee for programs, meals and local transportation was either \$50 or \$55.² About 65 people participated in the event which concluded at Woodland Farm with re-enactors portraying life on the farm. Also included in the program were a campground dinner and dance and musical performances. Applicant partnered with the same college for another similar presentation on November 13, 2004. (Applicant’s Ex. Nos. 21-24; Tr. pp. 66-71)

12. On June 25, 2005, the Underground Railroad Committee of applicant hosted the first Jacksonville Juneteenth celebration. Juneteenth, a 140 year-old event, celebrates the date when the last American slaves gained their independence. A tour of the farm was part of the event. (Applicant’s Ex. No. 25; Tr. pp. 71-72)

13. Tours of the farm were offered from one to four p.m. on Sundays in 2005 from the end of July through October. The cost of admission was \$2.00. Members of applicant gave talks on the history of the Underground Railroad in the area and the participation of residents in the secretive movement. (Applicant’s Ex. Nos. 18-20; Tr. pp. 60-61)

² The brochure stated the cost was \$50; the newspaper article about the event stated the cost was \$55 (Applicant’s Group Ex. No. 21).

14. A new bridge was put in over the creek near the south side of the property in April and May 2005. Otherwise the property was inaccessible for any vehicle that weighed over three tons. A dedication ceremony for the bridge was held on November 1, 2005. Applicant still needs a parking lot and other infrastructure details. In addition, space will be needed to create replica cabins if the specific archeological places of the four former cabins, used by the owner's freed blacks in the early 1880's, cannot be found. Architectural plans for the projects had not been started at the time of the hearing in 2006. (Applicant's Ex. No. 27; Tr. pp. 78-79, 85-88, 90-91)

15. Before the organization and construction of the living natural history museum that applicant hopes to turn the Woodlawn Farm into, an architectural and archeological survey must be done of the grounds. The Underground Railroad Committee of the applicant has received a grant of \$69,400 to begin the survey work, which is being headed by a curator of anthropology at the Illinois State Museum. The hope of the students and faculty conducting the survey is that they will be able to locate the four cabins that free blacks lived in on the property. The archeological investigations began in October 2005. (Applicant's Ex. Nos. 27-29; Tr. pp. 80-83)

16. During the early 1970's, the prior owners of Woodlawn Farm reportedly observed four brick foundations that were exposed by landscaping and preparation of construction of the highway that is north of the parcel index number at issue. The prior owners were unable to document the remains of the 20 x 40 foot buildings and they were destroyed in the construction of the highway. (Applicant's Ex. No. 29; Tr. pp. 83-84)

17. Applicant was incorporated in the State of Illinois under the General Not for Profit Corporation Act on November 30, 1978. The purpose of the applicant, according to its Articles of Incorporation is:

to bring together those people interested in history, and especially in the history of Morgan County. It will collect any material which may help to establish or illustrate the history of the area, will provide for the preservation of such materials so that they may be accessible, as far as may be feasible, to those who wish to examine or study them, and cooperate with local officials to insure the preservation and accessibility of records and archives and the preservation of historic buildings, monuments and markers. It will disseminate historical information and arouse interest in the past by such means as holding meetings with addresses, lectures, papers, and discussion. . . . (Applicant's Ex. No. 3)

18. Applicant's Constitution, adopted February 9, 1978 and revised on April 27, 2005

states:

The purpose of this society shall be to bring together those people interested in history, and especially in the history of Morgan County, Illinois. Understanding the history of our community is basic to our democratic way of live, gives us a better understanding of our state and nation, and promotes a better appreciation of our American heritage.

The society's major function will be to discover and collect any material which may help to establish or illustrate the history of the county; its exploration, settlement, development, and activities in peace and war; its progress in population, wealth, education, arts, science, agriculture, manufactures, trade, and transportation. It will collect printed materials such as histories, genealogies, biographies, descriptions, gazetteers, directories, newspapers, pamphlets, catalogues, circulars, handbills, journals, memoranda, reminiscences, rosters, service records, account books, charts, surveys, and field books; and museum material such as pictures, photographs, paintings, portraits, scenes, aboriginal relics, and material objects illustrative of life, conditions, events, and activities of the past or present.

The society will provide for the preservation of such materials and for their accessibility, as far as may be feasible, to all who wish to examine or study them; cooperate with officials in insuring the preservation and accessibility of the records and archives of the county and of its cities, towns, villages, and institutions; and insure the preservation of historic buildings, monuments, and markers.

The society will disseminate historical information and arouse interest in the past by publishing historical material in newspapers

or otherwise; by holding meetings with pageants, addresses, lectures, papers, and discussions; by marking historic buildings, sites, and trails; and by using the media of radio and television to awaken public interest.

The society will cooperate with the Illinois State Historical Society to collect and preserve materials of statewide significance so that these can be made available to students and scholars. (Applicant's Ex. No. 4)

19. Applicant Constitution and Bylaws list five classes of membership: 1) individual active members; 2) family memberships; 3) sustaining members; 4) life members and 5) honorary members. The officers are the president, vice-president, secretary and treasurer. The Board of Directors is composed of nine people, three of whom are replaced every year. Applicant has between 100-120 members. The advantages of membership are not contained in the Constitution or Bylaws. (Dept. Ex. No. 2; Applicant's Ex. No. 4; Tr. p. 13)

20. Applicant's Bylaws, adopted on February 9, 1978, revised on April 27, 2005 and October 18, 2005 state that any person interested in the history of Morgan County, Illinois who applies for membership in any classification of membership and who tenders the necessary dues shall thereby become a member. Annual dues for individual active members is \$10; annual dues for family membership is \$20; annual dues for sustaining members is \$100; and dues for individual life members is \$200. (Dept. Ex. No. 2; Applicant's Ex. No. 4)

21. Applicant's standing committees are the Publishing Committee, Chautauqua Committee, Nominating Committee and Underground Railroad Committee. Its Bylaws authorize the creation of a Library, Museum, Publication, Historic Site, Program, and Membership Committee. (Dept.'s Ex. No. 2; Tr. pp. 15-16)

22. The Chautauqua is one of the main programs sponsored by the applicant. It is not held on the subject property. Each summer a theme is picked and re-enactors, speakers and

musicians from a certain historical period or an historical issue put on a large program that lasts for four or five nights at the Jacksonville Community Park. The program is free. Applicant hosts an historical dinner at the event that people pay to eat. (Tr. pp. 16-17)

23. Applicant's audit report for 2004 shows total liabilities and net assets of \$684,685. The assets are broken down into current assets of \$111,035 and fixed assets of \$573,650. The liabilities and net assets are divided into current liabilities and long-term debt, net of current maturity mortgage payable, for total liabilities of \$166,033. Net assets are broken down into temporarily restricted of \$106,836 and unrestricted of \$411,816 for total net assets of \$518,652. Total temporarily restricted net assets of \$106,836, are further divided to include: "Let's Make History"- \$68,169; Grant 1 - \$879; Underground Railroad - \$16,545 and Chautauqua - \$3,243. Applicant's support and revenues of \$189,943 consist of: contributions-\$164,591; grants-\$8,730; dues-\$1,460; promotional and event income-\$13,706; interest-\$787; and miscellaneous income-\$699. Its expenses were \$72,555 including \$22,167 for the Underground Railroad Program. (Applicant's Ex. No. 7)

24. Applicant also owns the old Jacksonville post office. Grants have been provided to applicant by the Department of Commerce and Economic Opportunity to make the post office available to the local historical museum. Note five in the financial statement section of the report, entitled "Construction in Progress," states: "The Morgan County Historical Society acquired the old Jacksonville Post Office and have been making improvements to it with grant monies and public contributions. When completed, the building may be used as a museum to house historical items collected for viewing. The cost of the project as of December 31, 2004 is \$399,589 and is included in Buildings in the Statement of Assets, Liabilities and Net Assets." (Applicant's Ex. No. 7; Tr. pp. 23-24)

25. The Department stipulated that any evidence that is presented as to use during the year 2004 would be indicative of the use of the real estate ongoing through 2005, including the financial records. (Tr. p. 22)

26. Applicant was granted an exemption from the payment of Federal income tax on January 14, 1980, from the Internal Revenue Service pursuant to a determination that it is an exempt organization under section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 2; Applicant's Ex. No. 5)

27. Applicant is also exempt from Illinois sales and use tax pursuant to a determination by the Illinois Department of Revenue that it is a charitable organization. The most recent renewal of the determination is dated March 11, 2005. (Dept. Ex. No. 2; Applicant's Ex. No. 6)

28. Applicant has no capital stock and pays no dividends to its members. The officers do not receive compensation for their services. (Tr. pp. 15-16)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill. 2d 484 (1992)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (f) Historical societies. . . .

In deciding whether the applicant actually and exclusively uses the property for charitable purposes, courts consider the following factors:

- 1) Whether the benefits derived from the property are for an indefinite number of persons;
- 2) Whether the property benefits the public in such a way as to persuade them to an educational or religious conviction, for their general welfare;
- 3) Whether the property benefits the public in such a way that it reduces the burdens of government;
- 4) Whether the organization has no capital, capital stock, or shareholders and earns no profits or dividends;
- 5) Whether the organization's funds are derived mainly from public and private charity;
- 6) Whether such funds are held in trust for the objects and purposes expressed in the organization's charter;
- 7) Whether the organization dispenses charity to all that need and apply for it;
- 8) Whether the organization provides gain or profit in a private sense to any person connected with it;

- 9) Whether the organization places obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; and
- 10) Whether the exclusively (primary) use of its property is for charitable purposes. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968).

These factors are used to determine whether property meets the constitutional standards for a charitable purposes exemption. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 290-291 (2004). They are to be balanced with an overall focus on whether and how the organization and use of the property serve the public interest and lessen the State's burden. *See* Du Page County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468 (2nd Dist. 1995) (*leave to appeal denied*, 164 Ill. 2d 561)

Applicant herein acquired the subject property by two warranty deeds dated December 29, 2003. Applicant's Constitution, Bylaws and Articles of Incorporation describe the activities of applicant as a group of people interested in history, and especially in the history of Morgan County. Applicant is an historical society and the acquisition of the subject property was important to it because the land and house were known to be areas associated with the Underground Railroad movement in central Illinois. Applicant's major functions are to discover, collect and preserve materials related to those activities. A museum established to educate the public qualifies as a charitable institution for real property tax exemption purposes but it is still necessary to ascertain whether the use of the property is charitable under the guidelines established in Methodist Old Peoples Home v. Korzen, *supra*. Vermilion County Museum Soc. v. Department of Revenue, 273 Ill. App. 3d 675 (4th Dist. 1995) Charitable use is a

constitutional requirement. Eden Retirement Center, Inc. v. Department of Revenue, *supra* at 287.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill. 2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill. 2d 272 (1967)

As the guidelines of Methodist Old Peoples Home v. Korzen, *supra*, discuss whether a charitable organization's benefits are derived for an indefinite number of persons, whether the organization dispenses charity to all that need and apply for it, and whether the organization places obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed, it is informative to look at applicant's membership requirements. Applicant had five classes of membership with stated membership dues for four of those classes. There is no provision for a waiver of those dues in the organizational documents and, in fact, applicant's Bylaws state that anyone who tenders the necessary dues shall become a member. Therefore it cannot be said that membership in applicant is open to any who would wish to avail themselves of that membership, that no obstacles are placed in the way of those desiring membership, or that charity is dispensed to all.

Regarding another monetary issue, applicant's witness, Linn Mann, testified that they requested a donation rather than any kind of admission charge for a tour of Woodlawn Farm (Tr.

pp. 58-59, 72), that there is no admission charge for school children touring the farm (Tr. p. 75), and that the newspaper article that stated that the admission fee to tour the farm on Sunday afternoons in 2005 is \$2 was “an interpretation by someone writing the article.” (Tr. p. 62) Applicant’s current president asserted that the Chautauqua is free (Tr. p. 17), and that “People come and listen to however much they want to listen to and they’ll pay to eat dinner there even. We’ll have a dinner served. So you can pay and get your dinner there which is usually like historical food.” (Tr. p. 17) This may be an event that applicant provides, however, this event is not conducted on the property at issue. Therefore, any financial information regarding this activity has little or no relevance to whether applicant’s use of the property at issue was primarily charitable during 2005.

Applicant’s current president also testified that there are no charges imposed by the applicant for anyone going to Woodlawn Farms (Tr. p. 18), and that the only income derived from visiting Woodlawn farm is from voluntary donations that people might make. (Tr. p. 19) In support thereof, another newspaper article, that was a submission by the applicant about the Woodlawn Farm anniversary in 2006, states that a suggested donation for the event is \$10 with all proceeds going to pay for the mortgage on the property. (Applicant’s Ex. No. 26) Applicant also asserted that it has four to six programs throughout the year on different topics of interest regarding local history. (Tr. p. 17) However, there is no indication in the record that these four to six events took place on the property in question.

Applicant asserted that from January 2004 through December 2004 approximately 37 groups visited Woodlawn Farm. Applicant submitted a list entitled “Woodlawn Farms Group and Event Visits-2004” which lists a total of 1070 visitors to the farm in 2004. (Applicant’s Ex. No. 17) Applicant also keeps a guest book at Woodlawn Farm that it encourages people to sign.

It asserted that approximately 600-800 people have signed the book. (Tr. p. 60) Schools contact applicant about tours of the property if they are doing a unit on the Underground Railroad. In addition, applicant has visits and involvement with other schools and college students. Applicant's Ex. No. 17 was apparently prepared in anticipation of litigation and is self-serving. Applicant did not submit its guest book into evidence and provided no documents about the students' visits on the property.

The "Lamps of Knowledge, Lights to Freedom" schedule of events submitted as part of Applicant's Group Ex. No. 21 clearly states that the conference fee for programs, meals and local transportation is \$50. The accompanying newspaper article submitted by the applicant states that the morning symposiums are open to the public without charge, but "a \$55 fee is required for the meals and participation in Saturday night's celebration." The celebration occurred on the property in question. Although applicant asserted that the \$2 fee charged for the Sunday afternoon tours was an interpretation by the writer of the newspaper article submitted, it offered no other documentary evidence that the tours are free or anything else to support its assertion. Unfortunately, the documentary evidence and oral testimony regarding the fees and charges on the subject property are contradictory. In addition, there is no evidence that any artifacts or other historical items are stored or displayed in the farmhouse or on the subject property.

In Randolph Street Gallery v. Zehnder, 315 Ill. App. 3d 1060 (1st Dist. 2000) the court states that a charitable organization does not need to advertise or publish its pay-as-you-can policy for waiving admission fees in order to qualify for a charitable property tax exemption. The uncontradicted evidence of record established that the Gallery had a fee-waiver policy in place and used it. *Id.* at 1063 In this case, however, applicant has submitted documentary

evidence stating that fees are charged for admission to Woodlawn Farm and has not produced credible evidence regarding any fee-waiver policy.

In Vermilion County Museum Society v. The Department of Revenue, *supra*, the court found the admission fee of \$1 for adults and 50 cents for children to be insignificant. The court also found the \$10 membership fee not to be insignificant, but because it encourages interest in the Society resulting in necessary sizable contributions that allow the Society to keep the minimal admission charge, it did not negate the requested property tax exemption.

Similarly, in Resurrection Lutheran Church v. Department of Revenue, 212 Ill. App. 3d 964 (1st Dist. 1991) the court found that the amounts charged by the lessee, MoMing, for tuition and admission fees to dance concerts were substantially less than enough to cover the regular operating expenses. MoMing charged tuition and had a work-study program in place for students that could not afford to pay the tuition. Each performance event incurred a loss from \$1,000 to \$8,000. The court found that MoMing's use of the property was charitable and granted the property tax exemption.

The facts in both Vermilion County Museum Society v. The Department of Revenue, *supra*, and Resurrection Lutheran Church v. Department of Revenue, *supra*, are distinguishable from the facts at issue herein. Applicant's net assets at the end of 2004 were \$518,652. Its total expenses for the same time period were \$72,555. Applicant herein has failed to show that its programs incur losses or that its revenues are substantially less than the cost of its programs. There is nothing in the record to show that its fees are insignificant. In addition, as noted before, there is a failure of proof that applicant waives fees for its events or that it is applicant's policy to waive fees for anything occurring on the property. As the court found the \$10 membership fee in

Vermilion County Museum Society v. The Department of Revenue, *supra*, to be significant, this applicant's membership fees ranging from \$10 to \$200 are also significant.

It is certainly not clear from the evidence of record herein that applicant's activities on the subject property are open to any who would wish to avail themselves of those opportunities, that no obstacles are placed in the way of those desiring to participate in the activities, that charity is dispensed to all that need and apply for it, or that the benefits are derived for an indefinite number of persons. The burden is on the applicant to prove that it is an historical society under the exemption for charitable organizations, using the subject property for charitable purposes. There is also a failure of proof that charity is dispensed to all who would need or want applicant's services.

Applicant's financials are broken down into liabilities and assets. The applicant purchased the first 6.01 acres of the subject property. The prior owners made a gift to the applicant of the additional 4 acres. (Tr. p. 10) Applicant is paid \$400 a year not to farm 4 acres of the subject property. Applicant specifically does not use this part of the property for charitable purposes as it receives income not to use it pursuant to the Conservation Reserve Program.

Under the "LIABILITIES AND NET ASSETS" portion of the "STATEMENT OF ASSETS, LIABILITIES AND NET ASSETS-MODIFIED CASH BASIS" of the Audit Report are listed mortgage payable of \$2,426 and Long-Term Debt, Net of Current Maturity Mortgage Payable of \$163,607. Applicant's financial statement also shows contributions of \$164,591 and grants of \$8,730. There was no itemization of those contributions and no documentation distinguishing the contributions and liabilities for the old post office, the subject property and applicant's other programs. Applicant's fungible financial statement is for all its programs and

properties owned including the property at issue. It is certainly unclear from the audit report that applicant satisfies the criteria that the funds are derived from public or private charity.

In order to preserve the constitutional and statutory limitations that protect the property tax base, statutes conferring property tax exemptions are to be strictly construed with all doubts and evidentiary deficiencies resolved in favor of taxation. The applicant bears the burden of proving all elements of its exemption claim by a standard of clear and convincing evidence. Winona School of Professional Photography v. Department of Revenue, 211 Ill. App. 3d 565, 569 (1st Dist. 1991); Evangelical Hospitals Corporation v. Department of Revenue et al, 223 Ill. App. 3d 225, 231 (2nd Dist. 1992). “Clear and convincing evidence is defined as the quantum of proof which leaves no reasonable doubt in the mind of the fact finder as to the veracity of the proposition in question.” In re Israel, 278 Ill. App. 3d 24, 35 (2nd Dist. 1996); In re Weaver’s Estate, 75 Ill. App. 2d 227, 229 (4th Dist. 1966); Matter of Jones, 285 Ill. App. 3d 8, 13 (3rd Dist. 1996).

As applicant has failed to show that it satisfies the guidelines of Methodist Old Peoples Home v. Korzen, it cannot be said that the use of the subject property is charitable. I therefore conclude that applicant has not met its burden of proving that the use of the subject property in 2005 was for charitable purposes.

For the foregoing reasons, it is recommended that Morgan County Parcel Index No. 10-19-200-005 remain on the tax rolls for the 2005 assessment year.

Barbara S. Rowe
Administrative Law Judge
November 30, 2006